

United States District Court

for the
Western District of New York



United States of America

v.

Case No. 19-mj- 5241

PETER HINGSTON

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between in or about September, 2018, to on or about June 20, 2019, **PETER HINGSTON**, in the County of Erie, in the Western District of New York, did attempt to and did employ, use, persuade, induce, entice and coerce a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, which visual depiction was produced using materials that had been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer in violation of Title 18, United States Code, Section 2251(a) and (e); and did knowingly possess material which contained images of child pornography, that had been produced using materials that had been mailed, shipped, and transported in and affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18 U.S.C. Section 2252A(a)(5)(B).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

ERIC M. SCHMIDT, Task Force Officer
Federal Bureau of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: September 12, 2019

Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Eric Schmidt, being duly sworn, depose and say:

1. I am a Task Force Officer of the Federal Bureau of Investigation and have been on the Child Exploitation Task Force (CETF) since April 2017. I have been employed as a police officer with the Town of Tonawanda Police Department since January 2002. As a member of the CETF, I work on cases associated with the Violent Crimes Against Children program, which targets individuals involved in the on line sexual exploitation of children. As part of these duties, I have become involved in the investigation of suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, and 2423.

2. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers and electronic media are used as the means for receiving, transmitting, and storing child pornography.

3. I make this affidavit in support of a criminal complaint charging **PETER HINGSTON** (hereinafter "**HINGSTON**") with a violation of Title 18 U.S.C. Sections 2251(a) and (e) [attempted sexual exploitation of a child and sexual exploitation of a child] and 2252A(a)(5)(B) [possession of material that contained an image of child pornography].

4. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers involved in this investigation, and upon my training and experience. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that HINGSTON violated Title 18, United States Code, Sections 2251(a) and (e), and 2252A(a)(5)(B).

I. THE INVESTIGATION AND FACTUAL BASIS

5. On or about June 18, 2019, I learned that Buffalo Police Department (BPD) was investigating an incident related to the possible production of child pornography. I called the BPD Special Victims Unit to discuss the matter. During the telephone call, I was advised that a police report was filed regarding a City Honors teacher. The report alleged that a middle school technology teacher, HINGSTON, was observed using a GoPro camera to photograph or record female students in a sexually inappropriate way. I was also advised that statements were obtained from a student witness (hereinafter WITNESS 1).

6. WITNESS 1 advised that he/she believes they observed HINGSTON using the GoPro camera to take photographs or videos of minor female students in his classroom, including an incident wherein HINGSTON appeared to aim the camera under the table up a minor female student's skirt. WITNESS 1 also stated on or about June 17, 2019, he/she

observed HINGSTON take photographs of a minor female student's buttocks. WITNESS 1 became alarmed and upset and requested to leave the classroom.

7. On or about June 18, 2019, student witness (WITNESS 2) advised City Honors School administrators that he/she had observed HINGSTON utilizing the GoPro camera to take photographs or videos of a minor female student. WITNESS 2 stated that at the start of the 2018-2019 school year he/she and others observed HINGSTON talking to a minor female student in the back of his classroom. WITNESS 2 looked in the direction of the back of the classroom and observed HINGSTON take out the GoPro and take images or videos of the female student's buttocks without her knowledge. WITNESS 2 stated that on or about June 17, 2019, he/she observed HINGSTON doing the same thing, but it appeared HINGSTON was aiming the camera toward another minor female student's breasts.

8. On or about June 18, 2019, student witness (WITNESS 3) stated to City Honors School administrators that he/she observed HINGSTON utilizing the GoPro camera to take pictures of a minor female student. WITNESS 3 stated that at the beginning of the 2018-2019 school year he/she observed HINGSTON kneel down next to a female student who was wearing a neon green skirt and slide the GoPro underneath the student. WITNESS 3 stated that he/she panicked and felt what he was doing was wrong, but did not report it.

9. On or about June 17, 2019, while at school, HINGSTON voluntarily turned the GoPro camera over to the Buffalo Police. At one point during the process of turning it

over, he pulled back, appearing as though that he did not want to turn it over to the officers. Buffalo Police subsequently turned the GoPro over to the FBI Field Office in Buffalo where it was secured as potential evidence.

10. On or about June 22, 2019, WITNESS 2 was interviewed by law enforcement. WITNESS 2 stated again that he/she observed HINGSTON taking pictures with the GoPro on several occasions and described the device for officers. WITNESS 2 also gave the name of the female student who he/she observed HINGSTON taking pictures of while she was sitting on a desk with her legs up in the air.

11. On or about June 24, 2019, WITNESS 4 was interviewed by law enforcement. WITNESS 4 also had technology class with HINGSTON and recounted that on or about June 17, 2019, he/she observed HINGSTON with the GoPro camera and saw him hide the GoPro behind a sheet of paper that he was also holding. WITNESS 4 then saw HINGSTON move his thumb up and down on the device as if he was taking a photograph. WITNESS 4 stated that HINGSTON appeared to be taking photographs of a minor female student's breasts.

12. On or about June 28, 2019, WITNESS 1 was interviewed by law enforcement. WITNESS 1 said they observed HINGSTON take out the GoPro and take a picture of a female student's buttocks. The female student had on "really short shorts", and stated that HINGSTON was standing next to the female when he took the picture. WITNESS 1

provided a detailed description of the GoPro and stated he/she observed HINGSTON take pictures or videos of another female student on two other occasions. The other occasion was when HINGSTON knelt down next to another female student who was wearing a skirt.

WITNESS 1 observed him stand up after talking to the student and put the GoPro in his pocket. WITNESS 1 was not sure if he took a picture of the female during this incident but it did make WITNESS 1 suspicious.

13. On or about August 21, 2019, the GoPro, and a SanDisk micro secure digital (SD) card were searched. Both the SanDisk and the GoPro camera were manufactured outside the state of New York and therefore traveled in interstate or foreign commerce. The search revealed approximately 24 videos wherein HINGSTON involves or attempts to involve students in sexually explicit conduct. Based my training and experience, I submit that this conduct constitutes the attempted production and production of child pornography and depiction of sexually explicit conduct, as those terms are defined in Title 18, United States Code, Section 2256. Several of the videos are summarized below:

Description
A video, 13 seconds in duration, wherein HINGSTON's face is observed before he turns the camera and takes his erect penis and touches it to a minor female students hair. It appears the female did not recognize what was occurring.
A video, 31 seconds in duration, wherein HINGSTON's face is observed before he turns and takes his erect penis and touches it to a minor female student's hair. There is another minor female student in the background who is standing to the left of the victim.
A video, 22 seconds in duration, wherein HINGSTON's face is clearly observed before he approaches a minor female student and takes his erect penis and puts it into the student's hair.
A video, 24 seconds in duration, wherein HINGSTON's face is clearly

Description
observed before he takes his erect penis and touches it to a minor female student's hair.
A video, 57 seconds in duration, wherein HINGSTON's face is clearly observed before he turns the camera, takes his penis from his pants and begins touching it to a minor female student's pony tail (the student appears to be working at a table and did not recognize what was occurring).
A video, 20 seconds in duration, wherein HINGSTON is observed masturbating and takes his erect penis and begins touching it to a minor female student's pony tail.
A video, 25 seconds in duration, wherein HINGSTON's face is clearly observed before he turns the camera, takes his erect penis and begins touching it to a female student's pony tail (the student appears to be working at a table and did not recognize what was occurring.) Another minor female student is observed in the background to the left of the victim.
A video, 10 minutes 26 seconds in duration, wherein HINGSTON's face is clearly observed before he turns the camera repeatedly points the camera up a minor female student's skirt (the minor female student is standing and appears to be working at a table and did not recognize what was occurring).
A video, 47 seconds in duration, wherein HINGSTON's face is clearly observed before he takes the camera and covertly points it in the direction of a minor female student who is sitting on a stool at a table, using a cardboard box to hide the camera. The student is wearing shorts and has her right leg up on the stool, exposing her clothed genital area.
A video, 11 seconds in duration, wherein HINGSTON is pointing the camera in the direction of a minor female student who is sitting on a stool at a table. The student is wearing shorts and has her left leg up on the stool, exposing her clothed genital area.
A video, 22 seconds in duration, wherein HINGSTON's face is observed before he turns and masturbates in the presence of a clothed minor female student (the student was working on a laptop computer and did not recognize what was occurring).
A video, 16 seconds in duration, wherein HINGSTON's face is observed before he turns and masturbates and ejaculates onto a clothed minor female student's back (the student was working on a laptop computer and did not recognize what was occurring).
A video, 3 minutes 28 seconds in duration, wherein HINGSTON's face is observed before he turns the camera and exposes his penis, and

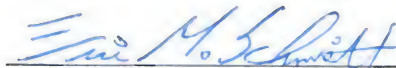
Description
puts it into close proximity to a minor female student's back. His erect penis does touch the student's pony tail.
A video, 25 seconds in duration, wherein HINGSTON removes his penis from his pants. A minor female student is observed on the video as well. The student does have long hair tied back into a pony tail. HINGSTON can be heard talking to people.
A video, 1 minute 17 seconds in duration, wherein HINGSTON has his erect penis exposed to the camera. He puts his erect penis into close proximity of a minor female student's thigh and then moves to another minor female student where he places the camera down, clearly exposing his face and penis. He then masturbates using the female student's pony tail. HINGSTON is also later observed talking to students in the class while holding a sheet of paper.
A video, 2 minutes 3 seconds in duration, wherein HINGSTON takes his erect penis and attempts to touch the elbow of a minor female student with it. These actions take place at the beginning of the video. Most of the video is only audible and not visible due to the camera being covered. HINGSTON's face is clearly visible at the end of the video.
A video, 52 seconds in duration, wherein HINGSTON's face is clearly visibly before he turns the camera, removes his penis from his pants and begins masturbating using a minor female student's pony tail. HINGSTON puts his penis back in his pants and then removes it again and continues masturbating.

14. On August 21, 2019 while searching the Sandisk Micro SD card, on video 255_GOPR9763, a "Sport Rocketry" magazine with a yellow colored rocket, headlines reading "Eggtimer Rocketry Flight Computers," and "Custom 3D Printed Rockets" is visible in the background of the video. On August 22, 2019, FBI Special Agent Randall Garver and I observed that magazine in HINGSTON's classroom. The date on the magazine is "May/June 2018."

15. On or about August 27, 2019 WITNESS 5 was interviewed and shown still images from one of the videos' contained on the GoPro. WITNESS 5 identified an article

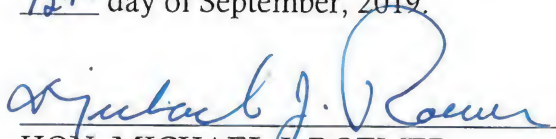
of clothing he/she was wearing in the video as being purchased in or about May 2019.

16. Based on the foregoing, there is probable cause to believe that HINGSTON violated Title 18 United States Code Sections 2251(a) and (e), and 2252A(a)(5)(B).



ERIC M. SCHMIDT, Task Force Officer
Federal Bureau of Investigation

Sworn and subscribed to before me this
12th day of September, 2019.



HON. MICHAEL J. ROEMER
United States Magistrate Judge